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June 20, 2017

VIA ECF

Hon. Laura Taylor Swain
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

RE: Solid Oak Sketches, LLC v. 2K Games, Inc.
Case No.: 16 Civ. 724 (S.D.N.Y.)

Dear Judge Swain,

We represent Plaintiff Solid Oak Sketches, LLC in the above-referenced litigation. We write to respond in opposition to Defendants' request for the briefing schedule set forth in its letter motion [D.E. 66].

On June 12, 2017, Defendants sent a letter to Plaintiff, pursuant to Rule 2(b)(i) of your honor's Individual Practices, expressing Defendants' belief that the case can be resolved at this stage based on the doctrine of *de minimis* use and fair use. Plaintiff, through undersigned counsel, vehemently disagreed and provided Defendants with a thorough, but not exhaustive, list of reasons that a judgment on the pleadings would be improper. This, as well as the sufficiency of Plaintiff's defenses to Take-Two's counterclaims, was further discussed by counsel for the respective parties during a scheduled meet-and-confer telephonic conference.

Plaintiff's position that the Defendants' briefing schedule request would prejudice Plaintiff deserves more attention than the piecemeal quote provided by Defendants. The docket demonstrates that this case was initiated through the filing of a Complaint on February 1, 2016 [D.E. 1] – 505 days ago. An Initial Conference before your honor has been adjourned four (4) times already: (1) on May 4, 2016 [D.E. 39]; (2) on October 6, 2016 [D.E. 54]; (3) on January 24, 2017 [D.E. 59]; and on April 28, 2017 [D.E. 63].

Plaintiff absolutely does want to proceed expeditiously with this case considering the length of time that it has been pending and the sheer number of adjournments of an Initial Conference. Plaintiff sees Defendants' new request for a briefing schedule and further adjournment of the Initial Conference, for a fifth time, as being a delay tactic, preventing Plaintiff from finally having a schedule by which it can move this case forward toward trial. Plaintiff asks that, at a minimum, the Initial Conference scheduled for June 30, 2017 at 10:15 a.m. not be adjourned once again.

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Regards,

A handwritten signature in blue ink, appearing to read "Darren A. Heitner".

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cc: Counsel of record (via ECF)